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SEP 28 1999 PTO/SB/21 (6-98)

<b>TRANSMITTAL FORM</b> (to be used for all correspondence after initial filing)		Applicati n Number	TECH CENTER 1800/2900
		Filing Date	June 9, 1998
		First Named Invent r	Jonathan W. Nyce
		Group Art Unit	1635
		Examiner Name	Dr. Epps
Total Number of Pages in This Submission	3	Attorney Docket Number	P6641031

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Assignment Papers (for an application)	<input type="checkbox"/> After Allowance Communication to Group
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Amendment / Response	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition Routing Slip (PTO/SB/69) and Accompanying Petition	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Status Letter
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<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Response to Missing Parts/Incomplete Application		
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	Remarks	Restriction Response

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual Name	Viviana Amzel, Ph.D. (Reg. No. 30,930) Arter & Hadden LLP
Signature	
Date	September 21, 1999

CERTIFICATE OF MAILING			
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on this date: 09/21/99			
Typed or printed name	Dee Dee Sutherland		
Signature		Date	September 21, 1999



PATENT P6641031

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Jonathan W. Nyce : Art Unit: 1635  
Serial No.: 09/093,972 : Examiner: Dr. Epps  
Filed: June 9, 1998 : Appl. Ref. No.: EPI-072  
For: COMPOSITION, FORMULATIONS & METHOD FOR PREVENTION &  
TREATMENT OF DISEASES AND CONDITIONS ASSOCIATED WITH  
BRONCHOCONSTRICTION, ALLERGY(IES) & INFLAMMATION

RESTRICTION RESPONSE

Assistant Commissioner for Patents  
Washington D C 20231

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Sir/Madam:

Responsive to the requirement for restriction dated August 24, 1999, applicant requests reconsideration of the unmerited requirement for restriction, and examination of all claims and all species in this application in view of the following remarks.

ELECTION

The applicant elects, with traverse, the invention defined by the examiner as group I. In addition, and for searching purposes only, the applicant elects the adenosine A1 receptor species, exemplified by SEQ. ID NOS:1 and 7-996. The claims included in the elected group are claims 1 to 64, directed to a composition. The examiner is, however, requested to rescind this requirement for restriction and examine all claims and all species in this application.

REMARKS

The examiner has required restriction under 35 U.S.C. 1.121, to one of the following inventions: Group I including claims 1-64, drawn to a pharmaceutical composition, and Group II including claims 65-107, drawn to a method of delivering the composition. In addition, the examiner required the election of one species to lessen her searching burden.

Applicant traverses both requirements on the basis that there are no grounds for this restriction. The present case poses no search burden what so ever because complete search on all adenosine receptor targets, compositions and uses was done in U.S. Patent Applications Serial Nos. 08\472,527, 08\757,024 and 08\474,497, by examiner Hauda. Moreover, the examiner in those cases did not see necessary to separate them into bits and pieces to lighten up her docket. The listed cases are all related to this application, and the allowed claims are directed to compositions and

methods of use of oligonucleotides that are anti-sense to all adenosine receptors included in the present claims. The first two cases were allowed and the issue fee paid December 1998, and the latter case was allowed on July 20, 1999.

The present claims are directed to the same composition comprising nucleic acids anti-sense to target adenosine receptors as the prior applications and a surfactant. The best case that could be made in favor of the examiner's position is that a search is required of the combination of the target receptor anti-sense nucleic acids and the surfactant. However, the prior compositions optionally contained a small amount of surfactant as a formulation component. Clearly, the search allocated to the present examiner may be said to be minimal, if any.

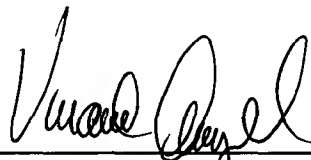
Claims 1-107 are pending in this case, and are drawn to an anti-sense-surfactant composition and to a method of delivering the nucleic acid(s). Consideration of all the claims and species in this application is hereby requested by the applicant.

It is believed that no fee is associated with this response. However, the assistant commissioner is hereby authorized to charge to Deposit Account No. 01-2520 any underpayment or fee associated with this communication, including a fee for an extension of time, which, if necessary, is hereby requested.

In view of the foregoing remarks, applicants believe this case to be in condition for examination on the merits, and for allowance. Early notice to that effect is hereby solicited.

Respectfully submitted.  
ARTER & HADDEN

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